

1993 Resolution No. 3

Encourage Ninth Circuit Attorneys to Participate in the Pro Se Representation Project

Submitted by

The Ninth Circuit Lawyer Representatives Coordinating Committee
and
The Ninth Circuit Senior Advisory Board

WHEREAS, the number of appeals filed in the United States Court of Appeals for the Ninth Circuit which involve pro se litigants has reached unprecedented levels; and

WHEREAS, the court of appeals' consideration of complex nonfrivolous pro se appeals would be greatly assisted in many cases by the appointment of pro bono counsel for the litigant;

WHEREAS, the court of appeals is in the process of establishing a comprehensive Pro Se Project to provide for the appointment of pro bono counsel in complex civil appeals where a party is proceeding pro se; and

WHEREAS, the Pro Se Project will depend upon the participation, active involvement, and contribution of the private bar in order to succeed; and

WHEREAS, the Senior Advisory Board has endorsed the project and offered its support for the project's successful implementation; and

WHEREAS, members of the Lawyer Representatives Coordinating Committee have committed themselves to support the proposed Pro Se Project and to assist in coordinating the project in their districts;

NOW, THEREFORE, BE IT RESOLVED THAT:

All lawyer representatives and all other members of the Ninth Circuit bar:

1) Assist the United States Court of Appeals to develop, carry out, and coordinate an effective Pro Se Project to provide counsel in complex, nonfrivolous civil appeals where a party is proceeding pro se; and

2) Become involved with the Pro Se Project in their districts; and

3) Personally encourage their colleagues toward the goal of pro bono representation sufficient to meet the needs of the project.

Statement of Reasons

More than one third of all new appeals filed in the United States Court of Appeals for the Ninth Circuit (2,783 of 7,979 appeals filed in 1992) have at least one party who is proceeding pro se. All new pro se civil appeals are reviewed at the outset by court staff; many of these are dismissed for jurisdictional or procedural defects, or are simple or frivolous appeals disposed of on the merits without the need for assistance of counsel. The remaining pro se appeals are generally more complex and/or meritorious, and require more of the court's time and resources to resolve. Often, the court's consideration of the appeals would be greatly benefitted by the assistance of pro bono counsel to ensure that these pro se appeals receive the same attention as other case of similar complexity.

To this end, the court is in the process of establishing a Pro Se Project by which the court will appoint pro bono counsel in the more complex and meritorious civil pro se appeals, including habeas corpus appeals. To the extent possible, counsel will be appointed in the districts in which the cases arise. The pro bono lawyers in each district will be coordinated by the chair of that district's lawyer representatives (or his or her designee), who will work in conjunction with the court's Coordinating Staff Attorney. The court has committed itself to hear oral argument in all cases in which counsel is appointed through the project. Funds are available, if needed and requested, to reimburse reasonable and necessary out-of-pocket expenses.

The court anticipates, based on available statistics regarding pro se appeals, that over 100 pro se civil appeals each year will warrant the appointment of counsel. The court is planning to enlist the aid of law school clinics throughout the circuit to provide representation in some of these cases, but the court must rely on participation by the private bar for the majority of the appeals. The lawyer Representatives Coordinating Committee and the Senior Advisory Board have pledged their support, and they have begun to solicit the assistance of the private bar.